

Docket No. HOE96/F319CON

PATENT

REMARKS

Claims 56-59, 104-106, 117, and 119 have been cancelled without prejudice to filing the subject matter of these claims in one or more subsequent applications or to reintroduction in the present application. No new matter has been added. Thus, claims 2-4, 6, 7, 62, 63, 67, 68, 71, 76, 77, 79-103, and 107-115 are pending.

Rejection of Claims

Claims 56-59, 104-106, 117, and 119 have been rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over McDaniel et al. (U.S. Patent No. 4,316,807).

In paragraph 4 of the Final Office Action, the Examiner states that McDaniel et al. discloses the formation of aqueous solution, suspension, or dispersions of silane-treated hydrous inorganic materials selected from the group consisting of silicon oxide, aluminum oxide, and mixtures thereof. In particular, the Examiner states that McDaniel et al. discloses adding acid including HCl to sodium silicate and/or sodium aluminate to form a hydrogel at a pH of about 7-11, and this gel is subsequently followed by the addition of an alkoxysilane to form the silane treated hydrous inorganic materials. Also, the Examiner states that McDaniel et al. discloses that the compositions have use as viscosity modifying compositions that impart pseudoplastic properties to aqueous systems, and that additives such as water loss inhibitors as well as further conventional additives employed in the drilling fluid composition art can be used, including fibers (known in the art as fluid loss additives) or salts or electrolytes.

In addition, the Examiner states that some of the present claims set forth the preamble that the process is directed to a process for preparing an organically modified aerogel but fails to provide a clear and positive statement/step in the body of the claim requiring that an aerogel is formed. The Examiner notes that these claims have been included in this rejection as they do not distinguish since the process claimed employing the process steps as claimed may be employed in making materials other than aerogels. The Examiner also states that the terms

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hydrogel and lyogel are deemed to overlap and do not distinguish the claimed subject matter over the reference. Furthermore, the Examiner states that Applicants have not shown the separation of the recited steps to be critical to the invention and that the resulting materials would have the hydrophobic groups on the surface in processes where the silane is added during and after hydrogel formation based on the partition of the hydrophilic and hydrophobic materials.

In paragraphs 6 and 7 of the Final Office Action, regarding Applicants' arguments filed January 11, 2008, the Examiner states that, while these arguments have been fully considered, they are not deemed persuasive. In particular, the Examiner states that, while Applicants assert that McDaniel et al. does not disclose separate steps for forming the hydrogel and treatment with a silane, this has not been deemed to be persuasive since the addition of the silane is after the initiation of gellation and the claimed methods do not define the degree or completion of the gellation. Furthermore, the Examiner states that Applicants have not shown that the separation of these steps is critical to the invention and that the resulting materials would have the hydrophobic groups on the surface in processes where the silane is added during and after hydrogel formation based on the partition of the hydrophilic and hydrophobic materials.

While Applicants continue to respectfully disagree, in order to advance the prosecution of this application, claims 56-59, 104-106, 117 and 119 have been cancelled without prejudice to filing the subject matter of these claims in one or more subsequent applications or to reintroduction in the present application, thus making the rejection of these claims moot.

Allowable Subject Matter

In paragraph 5 of the Final Office Action, the Examiner states that claims 2-4, 6-7, 62-63, 67-68, 71, 76-77, 79-103, and 107-115 are allowed.

Applicants are grateful for the allowable subject matter. Furthermore, as these are the only claims pending in view of the amendment discussed above, the present application should therefore be in condition for allowance.

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Conclusion

In view of the foregoing amendments and remarks, Applicants believe that this application is in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would further expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

Respectfully submitted,



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